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RESPONSE UNDER 37 C.F.R. § 1.116  
EXPEDITED PROCEDURE  
GROUP 2681

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2681  
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PATENT APPLICATION  
Q-67999

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Pascal AGIN, et al.

Appln. No.: 10/036,356

Group Art Unit: 2681

Confirmation No.: 5474

Examiner: Gelin, J.

Filed: January 07, 2002

**RECEIVED**

AUG 02 2004

Technology Center 2600

For: A METHOD FOR IMPROVING PERFORMANCES OF A MOBILE  
RADIOCOMMUNICATION SYSTEM USING A POWER CONTROL ALGORITHM

**REQUEST FOR RECONSIDERATION  
AND  
REQUEST FOR INTERVIEW**

**MAIL STOP AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the **final** Office Action (Paper No. 5) mailed April 28, 2004, Applicant respectfully submits the following request for reconsideration of the statutory rejections under 35 U.S.C. § 102(b) and 103(a).

First, Applicant notes the allowability of dependent claims 28, 30, 33, 35, 36, 38-40 and 42 if these claims are rewritten in independent form; however, Applicant requests the Examiner to hold in **abeyance** the rewriting of these claims, until the Examiner has had an opportunity to reconsider (and to allow) the rejected claims 17-27, 29, 31, 32, 34, 37, 41 and 43-50.

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The rejection of the claims under 35 U.S.C. § 102(b) as being anticipated by Tiedemann '840, requires that Tiedemann disclose, either expressly or inherently, each limitation of each of these claims, or in other words, that each of these claims be readable on Tiedemann's disclosure. Applicant again respectfully submits that clearly such is not the case here.

Applicant incorporates herein by reference the arguments presented in Applicant's Response filed on February 18, 2004, and presents the following additional comments for the Examiner's reconsideration (and withdrawal) of the two statutory rejections.

Referring to section 3 or 7 of the Office Action, Applicant respectfully does not agree that col.3 lines 23-38 or col.4, lines 1-34 of Tiedemann discloses a step of "changing the transmit power according to a corresponding change in the required transmission quality target value".

**Contrary** to what the Examiner says, Applicant respectfully submits that "transmitting at higher or lower power due to propagation path" does not mean Applicant's claimed "changing the transmit power according to a corresponding change in the required transmission quality target value".

More specifically, there are other ways of "transmitting at higher or lower power" than by "changing the transmit power according to a corresponding change in the required transmission quality target value".

For example, according to the prior art as described at page 2 of Applicant's specification, in case of a change of transmission rate, the transmit power is generally changed in an inverse proportion to the variation of the spreading factor (i.e., in a proportion corresponding to the

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variation of the transmission rate), which is quite different from "changing the transmit power according to a corresponding change in the required transmission quality target value", and, furthermore, has the drawback, recognized by Applicant's invention, that it does not enable to set the transmit power to an optimized value.

Thus, since Tiedemann clearly does not disclose, either expressly or inherently, each limitation of each of the claims rejected under 35 U.S.C. § 102(b), Tiedemann is **incapable** of **anticipating** these rejected claims. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection under 35 U.S.C. § 102(b) and to allow the rejected claims, **or else** explicitly explain to Applicant the Examiner's disagreement with Applicant's above analysis.

As for the rejection of claim 22 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Tiedemann '840 in view of Faber '052, Applicant must respectfully disagree with the Examiner's statement,

Regarding claim 22, Tiedemann Jr. teaches all the limitations above except the transmission quality is represented by a signal to interference.

The reasons for Applicant's disagreement are explained in detail above.

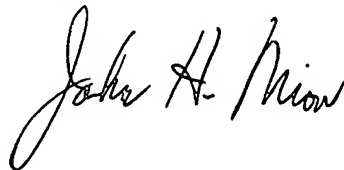
Even assuming, *arguendo*, that Faber teaches "the transmission quality is represented by a signal to interference [sic, ratio]", would not have rendered obvious the subject matter of dependent claim 22, and that the Examiner has not made out a case of *prima facie* obviousness of the subject matter of claim 22 taken as a whole.

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If, after the requested **reconsideration** of the two statutory rejections, the Examiner still feels that the application is **not in condition for allowance**, the Examiner is requested to **call the undersigned attorney** to discuss any unresolved issues and differences between Applicant's interpretation of Tiedemann and the Examiner's interpretation thereof, and to expedite the disposition of this **continuation** application.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,



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CUSTOMER NUMBER

Date: July 28, 2004